

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:06CV50-MU-1**

MOSES LEON FAISON,)	
)	
)	
Plaintiff,)	
Vs.)	ORDER
)	
OFFICER DEAL, <u>et al.</u> ,)	
)	
Defendants.)	
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THIS MATTER comes before the Court upon Defendant’s Motion for Summary Judgment, filed June 29, 2006.

Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment may be granted where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(c); Anderson v. Liberty Lobby, 477 U. S. 242, 106 (1986); Celotex Corp. v. Catrett, 477 U. S. 317 (1986). A genuine issue exists only if “the evidence is such that a reasonable jury could return a verdict for the non-moving party.” Anderson, 477 U.S. at 248.

In opposing a summary judgment motion, the “non-moving party must do more than present a mere “scintilla” of evidence in his favor. Rather, the non-moving party must present sufficient evidence such that “reasonable jurors could find by a preponderance of the evidence for the non-movant.” Sylvia Dev. Corp. v. Calvert County Md., 48 F.3d 810, 818 (4th Cir. 1995)(quoting Anderson , 477 U.S. at 249-50). An apparent dispute is “genuine” only if the non-movant’s version

is supported by sufficient evidence to permit a reasonable jury to find in its favor. Id. “If the evidence is merely colorable, or is not significantly probative, summary judgment must be granted.” Anderson, 477 U.S. at 249.

In the instant case Plaintiff has failed to meet his burden. The evidence tendered by Plaintiff to the Court borders on frivolous and is grossly insufficient to create a material issue of fact. As such, Defendant’s Motion for Summary Judgment is granted.

IT IS, THEREFORE, ORDERED that:

1. Defendant’s Motion for Summary Judgment is GRANTED; and
2. Plaintiff’s Complaint is DISMISSED.

Signed: September 15, 2006

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

